

<u>Case Citation</u>	<u>Author</u>	<u>Authority Cited</u>	<u>Holding</u>
<i>Spivey v. State</i> , 761 N.E.2d 831 (Ind. 2002)	Dickson	Clarifies Richardson, acknowledges Pierce, and Sullivan concurring opinion in Richardson	The Indiana Double Jeopardy Clause is not violated when the evidentiary facts establishing the essential elements of one offense also establish only one or even several, but not all, of the essential elements of a second offense. No double jeopardy violation for felony murder, conspiracy to commit burglary. Trial court merged burglary conviction and death of victim not charged as overt act of conspiracy. Proof of burglary was included for both crimes but did not establish all elements of either
<i>Pierce v. State</i> , 761 N.E.2d 826 (Ind. 2002)	Boehm	Common law double jeopardy principles	Double jeopardy violation for A felony burglary and B felony robbery where same injury enhanced both crimes.
<i>Murray v. State</i> , 761 N.E.2d 406 (Ind. 2002)	Rucker	Richardson	No double jeopardy violation or improper sentencing where D convicted of felony murder and predicate felony of burglary, but only sentenced on felony murder. Rejects D's argument that felony murder should be vacated and burglary allowed to stand.
<i>Lander v. State</i> , 762 N.E.2d 1208 (Ind. 2002)	Sullivan	Richardson	No double jeopardy violation: murder, conspiracy to commit robbery. No basis in record for claim that shooting was part of the elements of the conspiracy.
<i>Swaynie v. State</i> , 762 N.E.2d 112 (Ind. 2002)	Sullivan	Richardson	No double jeopardy violation: attempt murder, burglary. Burglary complete upon breaking with intent, conduct supporting attempt murder occurred after. Burglary entered as a B felony.

<i>Thomas v. State</i> , 764 N.E.2d 306 (Ind. Ct. App. 2002)	Mathias	Grady v. Corbin	Double jeopardy violation: prosecution in Howard Cty. for dealing after D pleads to conspiracy to deal in Cass Cty. Delivery in Howard was one of the overt acts charged in Cass. Richardson held inapplicable in subsequent prosecution challenge.
<i>Bald v. State</i> , 766 N.E.2d 1170 (Ind. 2002)	Shepard	Richardson, Spivey	No double jeopardy violation: 3 counts felony/murder, arson where 4 separate victims to support each crime.
<i>Tyson v. State</i> , 766 N.E.2d 715 (Ind. 2002)	Dickson	Richardson, Spivey	Double jeopardy violation: dealing, conspiracy to deal where delivery of cocaine is charged as "overt act."
<i>Boyd v. State</i> , 766 N.E.2d 396 (Ind. Ct. App. 2002)	Najam	distinguishes Richardson	Double jeopardy violation: confinement, attempt confinement. Invokes 'continuous confinement' rule even though two separate sections of the confinement statute were violated.
<i>Wentz v. State</i> , 766 N.E.2d 351 (Ind. 2002)	Boehm	Richardson, Griffin	Double jeopardy violation: felony murder, kidnapping where kidnapping was underlying felony of felony murder.
<i>Watkins v. State</i> , 766 N.E.2d 18 (Ind. Ct. App. 2002)	Bailey	Richardson	No double jeopardy: murder, robbery. Robbery was reduced by trial court to a B felony from an A felony to avoid "same harm" double jeopardy violation. Rejected argument that robbery should be reduced to a C felony because use of deadly weapon is not an element of murder.

<i>Gross v. State</i> , 769 N.E.2d 1136 (Ind. 2002)	Rucker	Richardson, Spivey, Pierce	No double jeopardy under Richardson/Spivey for murder and A felony robbery, but Pierce common law rules required reduction of robbery to B felony for same injury/death.
<i>Henderson v. State</i> , 769 N.E.2d 172 (Ind. 2002)	Dickson	Richardson, Spivey, Pierce	No double jeopardy under Richardson/Spivey for felony murder (robbery) and conspiracy to commit robbery A felony, but Pierce common law rules required reduction of robbery to B felony
<i>Johnson v. State</i> , 774 N.E.2d 1012 (Ind. Ct. App. 2002)	Mattingly-M	Idle v. State	No double jeopardy: resisting law enforcement during police chase in two counties, with significant time break in two pursuits not a "one continuous event."
<i>McAbee v. State</i> , 770 N.E.2d 802 (Ind. 2002)	Sullivan	Pierce	No double jeopardy: murder and robbery B felony where deadly weapon was basis for B felony enhancement.
	Shepard	Richardson, Spivey, Pierce	Convictions challenged for attempt murder, aggravated battery, A felony burglary. Double jeopardy violation: attempt murder and aggravated battery, burglary reduced to B felony. Same act supported attempt murder and aggravated battery and same injury elevated burglary to A felony.
<i>Guyton v. State</i> , 771 N.E.2d 1141 (Ind. 2002)	Shepard	Richardson, (Sullivan Concurring opinion)	No double jeopardy: murder, carrying a handgun

<i>Scott v. State</i> , 771 N.E.2d 718 (Ind. Ct. App. 2002)	Sullivan	Richardson, Spivey, Pierce	No double jeopardy: Child Molest A felony (deviate sexual conduct), Child Molest C felony (fondling) separate touchings. Refuses to apply pre-Richardson case law that appears to preclude dual convictions for same act of molest.
<i>Williams v. State</i> , 771 N.E.2d 70 (Ind. 2002)	Shepard	Richardson, Spivey	No double jeopardy: burglary, intimidation. Burglary was already complete by the time D put gun to V's head.
<i>Alexander v. State</i> , 772 N.E.2d 476 (Ind. Ct. App. 2002), on rehearing	Sullivan	Richardson, Spivey	Double jeopardy violation: possession of firearm by serious violent felon, carrying handgun without a license. Evidence of constructive possession in handgun car used to support both convictions.
<i>Booher v. State</i> , 773 N.E.2d 814 (Ind. 2002)	Dickson	Richardson, Pierce	No double jeopardy: murder, robbery. Robbery was reduced by trial court to a B felony from an A felony to avoid "same harm" double jeopardy claim.
<i>Vestal v. State</i> , 773 N.E.2d 805 (Ind. 2002)	Dickson	Richardson	No double jeopardy: burglary, theft. Theft relates only to intent element of burglary and need not occur for burglary to occur.
<i>Holloway v. State</i> , 773 N.E.2d 315 (Ind. Ct. App. 2002)	Darden	Pierce	Post-conviction denial reversed, common law double jeopardy violation for rape and cdc to both be entered as Class A felonies for same bodily injury. Rape reduced to B felony on remand.

<i>Firestone v. State</i> , 774 N.E.2d 109 (Ind.Ct. App. 2002)	Barnes	Guyton	No double jeopardy: kidnapping, conspiracy to commit murder. Overt act charged as confinement of victim, two confinements occurred. State argued for non-vehicle confinement to support overt act. Guyton 3 and 5 applied.
<i>Goffinet v. State</i> , 775 N.E.2d 1227 (Ind. Ct. App. 2002)	Brook	Richardson, Spivey	No double jeopardy: manufacturing meth, possession of precursors. Precursors charged had not yet been used in manufacturing.
<i>Oeth v. State</i> , 775 N.E.2d 696 (Ind.Ct. App. 2002)	Vaidik	Guyton	No double jeopardy: attempt rape, cdc. Evidence beyond the cdc existed to support attempt rape. Guyton 3 applied. No double jeopardy for attempt rape and cdc convictions as A felonies due to use of same deadly weapon. Guyton 4 applied. Double jeopardy violation for aggravated battery and battery where exact same act used to support both. Guyton 2 applied.
<i>Robinson v. State</i> , 775 N.E.2d 316 (Ind. 2002)	Boehm	Richardson, Spivey, Guyton, Pierce	No double jeopardy: murder, robbery. Although act of shooting for murder was same act of force for robbery, neither crime establishes all elements of the other. Robbery was properly reduced by trial court to a B felony from an A felony to avoid "same harm" double jeopardy violation.

<i>Carrico v. State</i> , 775 N.E.2d 312 (Ind. 2002)	Boehm	Richardson, Spivey, Guyton, Pierce	No double jeopardy: murder, robbery. Although act of shooting for murder was same act of force for robbery, neither crime establishes all elements of the other. Robbery was properly reduced by trial court to a B felony from an A felony to avoid "same harm" double jeopardy violation.
<i>Mathis v. State</i> , 776 N.E.2d 1283 (Ind. Ct. App.	Baker	Richardson, Guyton	No double jeopardy: murder, carrying a handgun
<i>Lamagna v. State</i> , 776 N.E.2d 955 (Ind. Ct. App. 2002)	Mattingly-M	Spivey	Double jeopardy violated: dealing cocaine, conspiracy to possess cocaine. Evidence to support dealing same as overt act of conspiracy.
<i>Sallee v. State</i> , 777 N.E.2d 1204 (Ind. Ct. App. 2002)	Robb	Spivey, Guyton	No double jeopardy: rape, cdc, distinct and separate threats of deadly force found. Guyton 4 criteria applied.
<i>Dixon v. State</i> , 777 N.E.2d 110 (Ind. Ct. App. 2002)	Darden	Richardson, Guyton	Double jeopardy violated: voluntary, involuntary manslaughter same shooting and victim. Involuntary conviction vacated.
<i>Payne v. State</i> , 777 N.E.2d 63 (Ind. Ct. App. 2002)	Brook	Vestal	No double jeopardy: burglary, theft. Remand for imposition of sentence on theft charge
<i>Merriweather v. State</i> , 778 N.E.2d 449 (Ind. Ct. App. 2002)	Kirsch	Richardson, Spivey	No double jeopardy: robbery, confinement (separate acts of force)
<i>Oldham v. State</i> , 779 N.E.2d 1162 (Ind. Ct. App.	Bailey	Richardson, Spivey	No double jeopardy: murder, carrying a handgun